

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2387

**Introduced by Assembly Member Mullin
(Coauthor: Assembly Member Holden)**

February 18, 2016

An act to ~~amend~~ *repeal and add* Section 27317 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2387, as amended, Mullin. Vehicle equipment: counterfeit and nonfunctional ~~air bags~~. *airbags*.

Existing law makes it a misdemeanor for a person to (a) install, reinstall, rewire, tamper with, alter, or modify for compensation, a vehicle's computer system or supplemental restraint system, otherwise referred to as an air bag, so that it falsely indicates the supplemental restraint system is in proper working order; or (b) knowingly distribute or sell a previously deployed air bag or component that will no longer meet the original equipment manufacturing form or function for proper operation.

This bill would ~~additionally make it a misdemeanor for a person to knowingly distribute, sell, or install a counterfeit or nonfunctional air bag, as defined. The bill would also repeal these provisions and instead~~ make it a misdemeanor for any person to manufacture, import, install, reinstall, *distribute*, sell, or offer for sale any device with the intent that the device replace an ~~air bag~~ *airbag* in any motor vehicle if the person knows or reasonably should know that the device is a counterfeit ~~air~~

~~bag airbag or a nonfunctional air bag airbag, as defined, or does not meet specified federal safety requirements. The bill would provide that a person who installs a nonfunctional air bag that is nonfunctional solely because it has an electric fault, as specified, is only guilty of the crimes described above if, after the electrical fault is discovered, he or she fails to either replace the nonfunctional air bag with a functional air bag in a reasonable time or fails to notify the purchaser or other recipient of the vehicle that the air bag is nonfunctional. The bill would also make it a misdemeanor to knowingly and intentionally sell, install, or reinstall in a vehicle any device that causes the vehicle's diagnostic systems to fail to warn when the vehicle is equipped with a counterfeit airbag or nonfunctional airbag, or when no airbag is installed. The bill would deem any of the violations described as an unfair or deceptive act or practice for purposes of the Consumers Legal Remedies Act, as specified.~~ By creating new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 27317 of the Vehicle Code is repealed.
- 2 27317. ~~A person who installs, reinstalls, rewires, tampers with,~~
- 3 ~~alters, or modifies for compensation, a vehicle's computer system~~
- 4 ~~or supplemental restraint system, including, but not limited to, the~~
- 5 ~~supplemental restraint system's on-board system performance~~
- 6 ~~indicators, so that it falsely indicates the supplemental restraint~~
- 7 ~~system is in proper working order, or who knowingly distributes~~
- 8 ~~or sells a previously deployed air bag or previously deployed air~~
- 9 ~~bag component that will no longer meet the original equipment~~
- 10 ~~manufacturing form or function for proper operation, is guilty of~~
- 11 ~~a misdemeanor punishable by a fine of up to five thousand dollars~~
- 12 ~~(\$5,000) or by imprisonment in a county jail for up to one year,~~
- 13 ~~or by both the fine and imprisonment.~~
- 14 SEC. 2. Section 27317 is added to the Vehicle Code, to read:

1 27317. (a) A person shall not manufacture, import, install,
2 reinstall, distribute, sell, or offer for sale any device with the intent
3 that the device replace an airbag in any motor vehicle if the person
4 knows or reasonably should know that the device is a counterfeit
5 airbag or a nonfunctional airbag, or does not meet federal safety
6 requirements as provided in Section 571.208 of Title 49 of the
7 Code of Federal Regulations.

8 (b) A person shall not knowingly and intentionally sell, install,
9 or reinstall in a vehicle, any device that causes the vehicle's
10 diagnostic systems to fail to warn when the vehicle is equipped
11 with a counterfeit airbag or nonfunctional airbag, or when no
12 airbag is installed.

13 (c) A violation of subdivision (a) or (b) is a misdemeanor
14 punishable by a fine of up to five thousand dollars (\$5,000) or by
15 imprisonment in a county jail for up to one year, or by both the
16 fine and imprisonment.

17 (d) A violation of subdivision (a) or (b) shall be deemed an
18 unfair or deceptive act or practice for purposes of the Consumers
19 Legal Remedies Act (Title 1.5 (commencing with Section 1750) of
20 Part 4 of Division 3 of the Civil Code). Each manufacture,
21 importation, installation, reinstallation, distribution, sale, or offer
22 for sale shall constitute a separate and distinct violation.

23 (e) An installation or reinstallation shall not have occurred for
24 purposes of this section until the work is complete.

25 (f) The following definitions shall apply for purposes of this
26 section:

27 (1) "Airbag" means a motor vehicle inflatable occupant
28 restraint system device, including all component parts, such as
29 the cover, sensors, controllers, inflators, and wiring, that the
30 vehicle manufacturer recommends be replaced after deployment
31 that meets both of the following criteria:

32 (A) Operates in the event of a crash.

33 (B) Is designed in accordance with federal motor vehicle safety
34 standards for the specific make, model, and year of the motor
35 vehicle in which it is or will be installed.

36 (2) "Counterfeit airbag" means a replacement airbag that
37 displays a mark identical or substantially similar to the genuine
38 mark of a motor vehicle manufacturer or a supplier of parts to the
39 manufacturer of a motor vehicle without authorization from that
40 manufacturer or supplier.

(3) “Nonfunctional airbag” means a replacement airbag that meets any of the following criteria:

(A) The airbag was previously deployed or damaged.

(B) The airbag has an electric fault that is detected by the vehicle’s airbag diagnostic systems after the installation procedure is completed.

(C) The airbag includes a part or object, including, but not limited to, a counterfeit or repaired airbag cover or airbag component, installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SECTION 1. ~~Section 27317 of the Vehicle Code is amended to read:~~

~~27317. (a) A person who installs, reinstalls, rewires, tampers with, alters, or modifies for compensation, a vehicle’s computer system or supplemental restraint system, including, but not limited to, the supplemental restraint system’s on-board system performance indicators, so that it falsely indicates the supplemental restraint system is in proper working order, or who knowingly distributes or sells a previously deployed air bag or previously deployed air bag component that will no longer meet the original equipment manufacturing form or function for proper operation, or who knowingly distributes, sells, or installs a counterfeit or nonfunctional airbag is guilty of a misdemeanor punishable by a fine of up to five thousand dollars (\$5,000) or by imprisonment in a county jail for up to one year, or by both the fine and imprisonment.~~

~~(b) Any person who manufactures, imports, installs, reinstalls, sells, or offers for sale any device with the intent that the device replace an airbag in any motor vehicle if the person knows or reasonably should know that the device is a counterfeit airbag or~~

1 a nonfunctional airbag, or does not meet federal safety requirements
2 as provided in Section 571.208 of Title 49 of the Code of Federal
3 Regulations is guilty of a misdemeanor punishable by a fine of up
4 to five thousand dollars (\$5,000) or by imprisonment in a county
5 jail for up to one year, or by both the fine and imprisonment.

6 (e) ~~A person who installs a nonfunctional that is nonfunctional~~
7 ~~solely based on the definition in subparagraph (C) of paragraph~~
8 ~~(2) of subdivision (d) is only guilty of the offenses described in~~
9 ~~subdivisions (a) or (b) if, after the electric fault is detected by the~~
10 ~~vehicle airbag diagnostic system, the installer fails to either replace~~
11 ~~the nonfunctional airbag with a functional airbag in a reasonable~~
12 ~~time or fails to replace the notify the purchaser or other recipient~~
13 ~~of the vehicle that the airbag is nonfunctional.~~

14 (d) ~~The following definitions shall apply for purposes of this~~
15 ~~section:~~

16 (1) ~~“Counterfeit air bag” means an air bag that does any of the~~
17 ~~following: displays a mark identical or similar to the genuine mark~~
18 ~~of a motor vehicle manufacturer without authorization from that~~
19 ~~manufacturer; any air bag falsely represented to be an airbag of~~
20 ~~any true dealer, manufacturer or producer of the air bag; or a~~
21 ~~counterfeit or repaired airbag cover, installed in a motor vehicle~~
22 ~~to mislead the owner or operator of the motor vehicle into believing~~
23 ~~that a functional airbag has been installed.~~

24 (2) ~~“nonfunctional air bag” means a replacement air bag that~~
25 ~~meets any of the following criteria:~~

26 (B) ~~An airbag was previously deployed or damaged.~~

27 (C) ~~An airbag has an electric fault that is detected by the vehicle~~
28 ~~airbag diagnostic system after the installation procedure is~~
29 ~~completed.~~

30 (D) ~~An airbag includes a part or object, including, but not limited~~
31 ~~to, a counterfeit or repaired airbag cover, installed in a motor~~
32 ~~vehicle to mislead the owner or operator of the motor vehicle into~~
33 ~~believing that a functional airbag has been installed.~~

34 (E) ~~An airbag was subject to factory recall.~~

35 SEC. 2. ~~No reimbursement is required by this act pursuant to~~
36 ~~Section 6 of Article XIII B of the California Constitution because~~
37 ~~the only costs that may be incurred by a local agency or school~~
38 ~~district will be incurred because this act creates a new crime or~~
39 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
40 ~~for a crime or infraction, within the meaning of Section 17556 of~~

- 1 ~~the Government Code, or changes the definition of a crime within~~
- 2 ~~the meaning of Section 6 of Article XIII B of the California~~
- 3 ~~Constitution.~~

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